



Federal Communications Commission  
Washington, D.C. 20554

September 19, 2019

ION Media Battle Creek License, Inc.  
ION Media Charleston License, Inc.  
1 Clearwater Park Road  
West Palm Beach, FL 33401

Re: Requests for Extension of  
Construction Permit  
WZPX-TV, Battle Creek, MI  
WLPX-TV, Charleston, WV  
Facility ID No. 71871 and 73189  
LMS File No. 0000078257 and 78308

Dear Licensee,

On July 18, 2019, ION Media Battle Creek License, Inc., the licensee of Station WZPX-TV, Battle Creek, Michigan (WZPX) and ION Media Charleston License, Inc., licensee of Station WLPX-TV, Charleston, West Virginia (WLPX) (collectively ION and Stations), filed the above captioned applications seeking extensions of the Stations' construction permit expiration dates. For the reasons below, we grant ION's applications and extend the Stations' construction permit expiration dates 180 days to April 15, 2020.

*Background.* Pursuant to Section 73.3700(b)(5) of the Commission's rules, a station may request a single extension of its construction permit deadline of up to 180 days to complete construction of its post-auction facility.<sup>1</sup> Grant of an extension of the construction permit deadline does not alter the deadline by which a station must cease operating on its pre-auction channel. A station anticipating the need for an extension must submit an extension application using FCC Form 2100, Schedule 337, not less than 90 days before the assigned construction permit deadline.<sup>2</sup> For Phase 5 stations, such application was due by July 22, 2019. The application must demonstrate that the station is unable to complete construction on time due to circumstances that were either unforeseeable or beyond the station's control.<sup>3</sup>

WZPX was repacked from channel 44 to channel 21 and WLPX was repacked from channel 39 to 18. The Stations were assigned to transition Phase 6, which has a phase completion date of October 18,

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<sup>1</sup> See 47 CFR § 73.3700(b)(5). All subsequent requests for additional time to construct are subject to the Commission's tolling provisions, 47 CFR § 73.3598(b).

<sup>2</sup> 47 CFR § 73.3700(b)(5)(iv).

<sup>3</sup> The *Incentive Auction R&O* provides examples of six circumstances that might justify an 180-day extension of a station's post-auction construction permit: (1) weather related delays; (2) delays in construction due to the unavailability of equipment or a tower crew; (3) tower lease disputes; (4) unusual technical challenges; or (5) delays caused by the need to obtain government approvals, such as land use or zoning approvals, or to observe competitive bidding requirements prior to purchasing equipment or services; and (6) financial hardship with sufficient supporting evidence. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268 et. al., Report and Order, 29 FCC Rcd 6567,6804-05, paras. 581-2 (2014) (*Incentive Auction R&O*); 47 CFR § 73.3700(b)(5)(ii) and (iii).

2019. All repacked stations for Phase 6 were issued a construction permit with an expiration date of October 18, 2019. The Stations pledge to cease operation on their pre-auction channels by the phase completion date and operate interim facilities on their post-auction channels while they complete construction of their permanent post-auction facilities.<sup>4</sup>

ION states that, although it intended for the Stations to transition to their post-auction channel during Phase 6, both have experienced equipment, construction, and tower configuration challenges as well as manufacturing delays which have resulted in significant construction delays. ION states that insufficient time will remain prior to the Phase 6 completion date to complete the extensive reconstruction required at the Stations' post-auction channel facilities. Therefore, ION requests 180-day extensions.

*Discussion.* Upon review of the facts and circumstances presented, we find ION's requests to extend the construction permit deadline to construct the Stations' post-auction facilities meet the requirements for a construction permit extension. ION has demonstrated that an extension is needed because of equipment and construction delays outside of its control. We also find that grant of these extension requests is not likely to negatively impact the overall transition schedule. The Stations will cease operations on their pre-auction channels by the Phase 6 completion date and will operate interim facilities on their post-auction channels. To the extent some viewers are unable to receive the Stations' signals while they operate an interim facility, we believe that ION has every incentive to ensure viewers are fully informed about the Stations' transition plans.

We remind ION that pursuant to the Spectrum Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other."<sup>5</sup> Additional expenses incurred, for instance, as a result of the grant of changes in the Stations' transition plans that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, ION Media Battle Creek License, Inc.'s and ION Media Charleston License, Inc.'s applications for extension of construction permit expiration date **ARE GRANTED**. The construction permits (LMS File No. 0000068453 and 0000069627) for WZPX-TV, Battle Creek, Michigan and WLPX-TV, Charleston, West Virginia **ARE EXTENDED 180 days to April 15, 2020**. Grant of these extensions does not permit the Stations to recommence operation on their pre-auction channel after ceasing operation or after October 18, 2019, whichever occurs first. We also remind ION

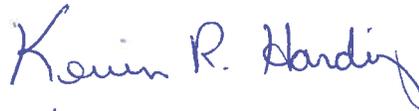
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<sup>4</sup> Although it has yet to file for Special Temporary Authority for interim operations for the Stations, ION has pledged to do so.

<sup>5</sup> 47 U.S.C. § 1452(b)(4)(A)(i). *See also Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

that any subsequent requests for extension of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>6</sup>

Sincerely,

A handwritten signature in blue ink that reads "Kevin R. Hardy". The signature is written in a cursive style.

for Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Bianca Frye

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<sup>6</sup> See 47 CFR § 73.3700(b)(5)(i) (referencing 47 § CFR 73.3598(b)).